

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

National Exchange Carrier
Association, Inc.

Request for Authorization to
Include Non-Member Company
Data in Tariff FCC No. 4 AAD 95-136

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 1996; Released: February 2, 1996

By the Chief, Common Carrier Bureau:

I. INTRODUCTION

1. In the *Interstate Services Order*,¹ the Common Carrier Bureau ("Bureau") authorized the National Exchange Carrier Association, Inc. ("NECA") to provide NECA Tariff FCC No. 4 ("Tariff 4") services to non-local exchange carriers ("LECs") on a compensatory basis.² NECA now seeks clarification that this authorization encompasses the expansion of the database NECA maintains pursuant to Tariff 4³ to include data from companies other than

NECA's LEC members.⁴ Because neither the Bureau nor NECA contemplated such an expansion in the *Interstate Services Order* proceeding, we decline to construe our prior authorization as encompassing the proposed services. We authorize NECA, however, to include non-member data in its Tariff 4 database because inclusion of such data will serve the public interest by promoting competition for interstate access services.⁵

II. BACKGROUND

2. In the early 1980s, the Commission established NECA, an association of LECs, to administer the interstate access tariff and revenue distribution processes.⁶ NECA currently administers several important Commission programs, including the pools for the common line ("CL") and traffic sensitive elements,⁷ the universal service fund ("USF"), the lifeline assistance program, the long-term support program, and telecommunications relay services ("TRS").⁸ Section 69.603(a) of the Commission's rules precludes NECA from engaging in "any activity that is not related to the preparation of access charge tariffs or the collection and distribution of access charge revenues unless expressly authorized by order of the Commission."⁹

3. NECA has previously received Commission approval to perform certain activities in addition to those authorized in Section 69.603(a). After billing and collection services were detariffed in 1986, the Commission authorized NECA to provide nonregulated billing and collection services for those LECs that did not want, or were unable, to provide these services.¹⁰ In 1987, the Bureau further authorized NECA to perform specified activities relating to intrastate tariffs and revenue pools on a compensatory basis.¹¹ The following year the Bureau granted NECA's request to pro-

¹ National Exchange Carrier Association, Inc., Request for Authorization to Perform Certain Customized Interstate Services, *Memorandum Opinion and Order*, DA 88-1610 (Com. Car. Bur., rel. Oct. 14, 1988) ("*Interstate Services Order*").

² When NECA provides services on a compensatory basis, the recipients pay NECA for the services which they receive. In section III(B), *infra*, we address the fees which NECA proposes to charge non-members for the inclusion of non-member data in the Tariff 4 database.

³ We describe the contents of the Tariff 4 database in para. 4, *infra*.

⁴ See Letter from Bruce W. Baldwin, President, NECA, to Kathleen M.H. Wallman, Chief, Common Carrier Bureau, dated May 19, 1995 ("Baldwin Letter").

⁵ The following parties filed comments in this proceeding: Cathey, Hutton & Associates, Inc. ("CHA"); MCI Telecommunications Corporation ("MCI"); MFS Communications, Inc. ("MFS"); Minnesota Independent Equal Access Corporation ("MIEAC"); Southwestern Bell Telephone Company ("Southwestern Bell"); and The NYNEX Telephone Companies ("NYNEX"). The following parties filed reply comments: Cathey, Hutton & Associates, Inc.; NECA; and The Association for Local Telecommunications Services ("ALTS").

⁶ MTS and WATS Market Structure, CC Docket No. 78-72, Phase I, *Third Report and Order*, 93 FCC 2d 241, 333-34 (1983).

⁷ These pools allow participating LECs to share the risks of providing interstate services by charging uniform rates for each pool. These rates are based on the pool participants' collective costs and demand, and are contained in tariffs that NECA files for the pool participants based on data that the participants provide to NECA. The LECs collect CL and traffic sensitive revenue directly from their customers. The participants report this revenue along with their CL and traffic sensitive invest-

ment and expenses to NECA, which redistributes the revenue by first paying its own administrative costs, then reimbursing the participants for their CL and traffic sensitive expenses, and then distributing any residue among the participating LECs in proportion to their average net investment.

⁸ The USF, lifeline assistance, long-term support, and TRS programs share a common purpose of promoting affordable telephone service throughout the nation. The USF helps carriers operating in high cost areas maintain low intrastate service rates in those areas. See 47 C.F.R. §§ 69.116, 69.603(c). The lifeline assistance program helps persons with low incomes to pay for telephone service. See 47 C.F.R. §§ 69.117, 69.603(d). The long-term support program requires LECs that do not participate in the CL pool to contribute part of their revenue to that pool. These contributions permit NECA to maintain a nationwide average CL rate equivalent to the rate that would result if all LECs had participated in the CL pool. See 47 C.F.R. §§ 69.2(y), 69.612. TRS permits persons with hearing and speech impairments to communicate by telephone with persons who do not have such impairments. TRS facilities have specialized equipment and staff who relay conversations between persons using text telephones and persons who use conventional telephones. Carriers can charge TRS users rates no greater than the rates charged for functionally equivalent voice communication services. See 47 C.F.R. §§ 64.601-64.605.

⁹ 47 C.F.R. § 69.603(a).

¹⁰ Detariffing of Billing and Collection Services, *Report and Order*, CC Docket No. 85-88, 102 FCC 2d 1150, *recon. denied*, 1 FCC Rcd 445 (1986). NECA provides billing and collection through its subsidiary, Independent NECA Services, Inc.

¹¹ NECA's Request for Authority to Provide Intrastate Services to Exchange Carrier Members, *Order*, 2 FCC Rcd 6853 (Com. Car. Bur., 1987).

vide non-LECs with on-line and magnetic tape access to its Tariff 4 database.¹² NECA had previously provided these services only to LECs. NECA's provision of these non-tariffed services is conditioned upon its not recovering any of the costs of these services through interstate tariff charges.¹³

4. The Tariff 4 database contains the vertical and horizontal ("V and H") coordinates for each wire center used by NECA's member LECs in the United States.¹⁴ Similar to longitude and latitude, the V and H coordinates designate wire center locations that carriers use to determine the distance between two central office locations. This information is used to determine the length of any particular segment of network facilities used for access transmission for purposes of calculating interstate access charges, as well as the appropriate division of access charges among LECs in instances where two or more LECs are involved in providing access services. The Tariff 4 database also contains information on the services available at each wire center, the technical specifications for each wire center, and information on interconnection agreements between LECs.

III. ANALYSIS

A. Expansion of the Tariff 4 Database

1. Parties' Positions

5. NECA now seeks clarification that its authorization to provide Tariff 4 services to non-LECs in the *Interstate Services Order* also allows NECA to expand the Tariff 4 database to include data from companies other than NECA's LEC members. In support of its request, NECA asserts, without further elaboration, that the additional data would increase the value of Tariff 4 as an industry resource and promote effective competition.¹⁵ NECA further contends that a complete and accurate listing of all access providers in Tariff 4 would improve the access ordering process and reduce the number of billing disputes.¹⁶

6. All commenters in this proceeding support NECA's request to include non-member company data in Tariff 4. Certain commenters argue that the expansion of Tariff 4 would improve the access ordering and billing process;¹⁷ increase the value of Tariff 4 to all users;¹⁸ foster effective competition by enhancing access customers' ability to compare the prices offered by rival access providers;¹⁹ and establish Tariff 4 as a complete industry resource by authorizing the inclusion of data regarding all access providers, whether NECA members or not, in Tariff 4.²⁰ Southwestern Bell states that Tariff 4 should clearly identify the data of non-member companies as such.²¹

2. Discussion

7. Because neither the Bureau nor NECA contemplated an expansion of the Tariff 4 database to include data from companies other than NECA's LEC members in the *Interstate Services Order* proceeding, we decline to construe our prior authorization as allowing the proposed service. We therefore consider NECA's request on its merits as a request for additional authorization.

8. The Tariff 4 database currently provides access customers with a single computerized source for a variety of billing and switch information regarding NECA members, including the V and H coordinates of the wire centers used by members, information on the services available at each wire center, the technical specifications for each wire center and information on interconnection agreements between LECs. The ready availability of this information from a single source reduces the costs that access customers incur when they deal with members. On the other hand, similar information regarding non-members must be obtained from sources other than the Tariff 4 database, and is generally not available in a computerized format, nor is it generally electronically accessible. We agree with the commenters that expansion of the Tariff 4 database to include non-member data would provide all database users with a single comprehensive listing of useful information. This would increase the database's utility by providing its users with quick and efficient access to information regarding both members and non-members which, in turn, would reduce the costs that access customers incur for access service. Finally, expansion of the Tariff 4 database would promote competition in the interstate access market by enhancing access customers' ability to compare the prices offered by rival LEC access providers. Thus, absent expansion of the Tariff 4 database, NECA's members might enjoy a significant competitive advantage over non-members by virtue of the fact that it would be easier to obtain billing and switch information regarding members than it would be to obtain comparable information regarding non-members. Accordingly, we authorize NECA, subject to the conditions discussed in paragraph 9, *infra*, to expand Tariff 4 to include data provided by companies that are not members of NECA.

9. In originally authorizing NECA to offer Tariff 4 services to non-LECs, the Bureau, in its *Interstate Services Order*, required NECA to: (a) maintain records of the costs and revenues of this activity; (b) reflect the results of this activity in its annual cost apportionment report; and (c) recover none of the expenses or other resources related to the provision of Tariff 4 services to non-LECs through interstate access charges.²² We subject NECA's authorization to include non-member company data in Tariff 4 to the same conditions.

¹² See note 1, *supra*.

¹³ See, e.g., *Interstate Services Order*, *supra*, at para. 9.

¹⁴ A wire center, which houses one or more local switching systems, is a point at which customers' loops converge.

¹⁵ Baldwin Letter at 2.

¹⁶ *Id.*

¹⁷ MCI Comments at 2.

¹⁸ *Id.*; MIEAC Comments at 2.

¹⁹ *Id.*; NYNEX Comments at 3.

²⁰ MCI Comments at 2; CHA Comments at 4; NYNEX Comments at 4.

²¹ Southwestern Bell Comments at 2.

²² *Interstate Services Order*, *supra*, at paras. 8-9; see also National Exchange Carrier Association, Inc.'s Cost Accounting and Procedures Manual, *Memorandum Opinion and Order*, 3 FCC Rcd 5827, 5828 (1988).

B. Fee Schedule**1. Parties' Positions**

10. As previously discussed,²³ NECA administers the pooling and distribution of its member LECs' access revenues. NECA uses a portion of these revenues to fund the Tariff 4 services it provides its members.²⁴ Because NECA does not have such access to non-members' revenues, it proposes to charge non-members for being included in the Tariff 4 database. Under NECA's proposed fee schedule, non-members would pay a \$495 initial set-up fee, an additional \$110 annual subscription fee, and \$15 annually per location identified in Tariff 4 as a rating point for interstate access billing purposes.²⁵ For non-member access to the Tariff 4 database through NECA's optional image disk system service, NECA proposes to charge \$100 for the initial set-up, plus a \$250 annual subscription charge.²⁶ NECA states that these fees would be cost-based and proposes to classify non-member Tariff 4 database services as a category II activity.²⁷ NECA indicates that this classification would ensure that NECA does not recover through tariffed rates the costs of any additional activities associated with Tariff 4 services provided to non-member LECs.²⁸

11. MFS and MCI both comment on NECA's proposed fees. MFS states that any fees that NECA charges for the publication of non-member network information must be "reasonable, cost-based and non-discriminatory."²⁹ MFS urges the Commission to require that NECA demonstrate that its proposed pricing schedules are cost-supported and to allow review and comment by interested parties.³⁰ MCI contends that NECA's proposed pricing for non-members carriers is "unreasonable and lacks the requisite cost support."³¹ MCI states that the Commission should require NECA to file cost support information to demonstrate the cost-based nature of the proposed non-member charges.³²

12. In its reply, NECA asserts that it based its proposed charges on the costs it incurred in providing Tariff 4 services to member companies during 1994.³³ NECA states that it designed its charges to recover all of the costs associated with the inclusion of non-member companies' network information in Tariff 4 from the users of the service, not from interstate access charges.³⁴ According to NECA, the initial set up charges are non-recurring and are based upon the material and labor costs NECA must incur in establishing new account information, training new users, and loading initial data.³⁵ NECA states that the proposed annual subscription charges reflect recurring costs associated with issuing documentation materials as well as system costs for entering changes.³⁶ Finally, NECA proposes to review its charges with any customer seeking assurance that NECA's charges are not excessive.³⁷

²³ See para. 2, *supra*.

²⁴ See 47 C.F.R. §605(b).

²⁵ A rating point is a wire center or other location used to calculate an access customer's bill for a segment of interstate access transmission. The location, in order to be included in the Tariff 4 database, must be identified with the appropriate supporting information relating to its locality, including, among other things, its V and H coordinates. Baldwin Letter at Attachment I.

²⁶ *Id.* This service provides subscribers with computer disks containing the updated Tariff 4 database each month.

²⁷ Baldwin Letter at 2; NECA Reply at 2. In order to prevent improper cross-subsidization, the Commission's rules require NECA to divide its expenses into three categories: TRS-related

2. Discussion

13. Because NECA has agreed to review its proposed fees with its customers, we decline at this time to undertake an inquiry into whether we should prescribe those fees. We require, as a condition of our authorization, that NECA, in reviewing its fees with its customers, make available sufficient information for those customers to evaluate whether NECA's fees are cost-based, as it contends. If after NECA has reviewed its proposed fees with its customers some disputes regarding the fees remain, interested persons can petition the Commission to review those fees.

IV. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205 and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205 and 218-220; and Sections 0.91, 0.291 and 69.603 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291 and 69.603, that the National Exchange Carrier Association, Inc. IS AUTHORIZED to include non-member company data in Tariff FCC No. 4.

15. IT IS FURTHER ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205 and 218-220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205 and 218-220; and Sections 0.91, 0.291 and 69.603 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291 and 69.603, that the National Exchange Carrier Association, Inc. SHALL COMPLY with the conditions stated in paragraphs 9 and 13 of this Order.

FEDERAL COMMUNICATIONS COMMISSION

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expenses; category I expenses, which are those associated with NECA's mandated functions as set forth in the Commission's rules; and category II expenses, which are those associated with NECA's remaining functions. 47 C.F.R. §§ 69.603(h), 64.604.

²⁸ NECA Reply at 3.

²⁹ MFS Comments at 2.

³⁰ *Id.*

³¹ MCI Comments at 2, 3.

³² *Id.* at 3-4.

³³ NECA Reply at 2-3.

³⁴ *Id.* at 3.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*